BOOK REVIEWS

BLACK ON BANKRUPTCY, by Henry Campbell Black. (Kansas City: Vernon Law Book Company, 1922. Two Volumes.)

A masterful embellishment and correlation of the Bankruptcy Act is Mr. Black's latest contribution to legal bibliography in the form of a treatise on the law and practice of bankruptcy. The bare frame of the statute, consisting of an outline of working principles, has at times appeared to be disconnected, disjointed, and its continuity broken with seemingly inexplicable gaps, but with a careful application of the treatment prescribed by the courts plus a keen understanding of its functions the author of Black on Bankruptcy presents the law, which began with 34 & 35 Henry VIII., ch. 4, in a well rounded, polished, and composite whole.

In the text the subjects are handled in the order they are arranged in the Act, but by means of pertinent and cumulative references to the revelant, but scattered, sections of the statute, a certain coherent and smooth contextual relation of the whole is effected which could not be attained by a mere perusal of the law. We find many hints and apposite illustrations of the practice used in applying the Act, which, in turn, are explanatory, in that they present the theory in a more concrete form.

Especial attention is directed to Chapter V., wherein the powers and duties of the referee are detailed with comprehensiveness and accuracy. Continuing in this chapter, the reader perceives the nice distinctions of definition, upon which depend the powers of this officer peculiar to the bankruptcy court. There is to be found an enumeration of the instances of the Act's discrimination and allocation of the powers of the "court" as meaning the "judge" or "referee".

The appendix contains the bankruptcy law of 1898, the General Orders and Forms in Bankruptcy, and the bankruptcy law of 1867. The brief marginal headings beside the sections of the present act enable the topics of the law to be readily found.

It is with a feeling of satisfaction that we welcome the reappearance of Mr. Black in the field of bankruptcy, for he again comes, not with a mere tabulation and paraphrase of authorities, but with a fresh and original style of expression of his sound interpretations of "An Act Against Such Persons As Do Make Bankrupts."

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THE EQUITY PLEADING AND PRACTICE AND THE FEDERAL EQUITY RULES. By William Minor Lile. (University of Virginia: Anderson Brothers, 1922, pp. 364.)

After conceding to the case system of teaching law all that is claimed for it by its most ardent advocates we proceed to charge it with being

in large measure responsible for having driven the concise, scholarly law textbook from the field. Casebooks have taken the place of textbooks in law schools. Practitioners are coming to depend more and more on reported cases, cyclopedias and digests. This is not to bewail the dearth of textbooks; they are plentiful, voluminous and expansive. Salesmen and the mails keep us well advised of this fact. But, as one reviewer has said, "they reek of the pastepot"; and another, that "we are led to wonder sometimes in these latter days whether law books are written as pigs are sold, by the pound, or as the hod is carried, by the day." That there are notable works, some very recent, not subject to these criticisms need scarcely be stated; they are well known and need not be named. But it is surely true that the cause of the failing demand therefor by student and practitioner the moderate-sized, dependable textbook is becoming a rare production. How many books would the reader care to compare with Corbin's edition of Anson on Contracts? But as such books become the more scarce, their advent is the more welcome; therefore, we greet with pleasure the second edition of Dean William M. Lile's Equity Pleading and Practice. This work, on a subject that does not lend itself particularly well to casebook presentation, the production of the author's scholarship and long experience as a teacher of the subject, written in his clear virile style, is most welcome.

The exposition is principally of the system of equity procedure as it exists in Virginia "where equity procedure probably conforms more nearly to that of Bacon's day than that of any American state" but with reference throughout to the Federal Equity Rules.

Beginning with jurisdiction we find treated in order the institution of the suit, venue, process, bill, demurrer, plea, answer, testimony, master's report, orders and decrees, sales, enforcement of decrees and appeals. This is not a complete table of contents, but it shows the logical and progressive arrangement of the work. We find chapters on injunctions, partition, divorce, sales of lands of persons under disability, creditor's suits, and receivers. We find also a selection of forms, from the subpoena to the final decree in a typical chancery suit, other miscellaneous forms and the Federal Equity Rules. This material, with an adequate index and table of cases in a volume of 364 pages, bearing on every page evidence of Dean Lile's knowledge of his subject and his happy ability to state it clearly and concisely renders the book an extremely valuable one to the student, teacher and practitioner.

Not only is it valuable; it is timely. For when we find in our practice and reported cases, special replications to pleas, demurrers to answers, hopeless confusion as to the proper function of the exception to the answer, and the complete decadence of the practice of setting the case for hearing on the bill and answer we feel that the law on this subject stands badly in need of clear restatement. And this we find in Dean Lile's book.

Descending to a few particulars, we find the discussion of jurisdiction, and venue particularly clear and helpful. We are told that "jurisdiction is a very much abused term at best", and who can doubt it? Yet one may say that the division of jurisdiction into potential and active is not entirely accurate as it forces us to discuss such cases as *Pennoyer* v. *Neff* from the standpoint of the court's jurisdiction, or rather the lack of it,

when in fact the trouble in cases of that type is that the State lacks jurisdiction or power to affect the defendant's rights. It is the lack of sovereign power in the State (under the Constitution of the United States) and not lack of jurisdiction in the court that renders such proceedings invalid, though of course the greater includes the less—the State lacking the power cannot confer jurisdiction on its courts.

A more accurate division would seem to be: (1) the sovereign power of the State, (2) the jurisdiction of the court, (3) venue, (4) the defendant's day in court; that is, notice and the opportunity to be heard. Under the first head we may put *Pennoyer* v. *Neff*, 95 U. S. 714; *N. Y, Life Ins. Co.* v. *Dunlevy*, 241 U. S. 518; and *Hilton* v. *Consumer's Can Company*, 103 Va. 255 (after the attachment was quashed); under the second head, *Litz* v. *Rowe*, 117 Va. 752; *Thacker* v. *Hubard*, 122 Va. 379 (assuming that a question of jurisdiction was really involved, which seems doubtful); *Blankenship* v. *Blankenship*, 125 Va. 595; *Parker* v. *Stephenson*, 127 Va. 431; *Stowers* v. *Harman*, 128 Va. 229; under the third head we may put *Warren* v. *Saunders*, 27 Gratt. 259; *Deatrick* v. *Insurance Co.*, 107 Va. 602; and *Moore* v. *N. & W. Ry. Co.*, 124 Va. 628; and under the fourth head, *Ward Lumber Co.* v. *Henderson Lumber Co.*, 107 Va. 626; *Park Land Co.* v. *Lane*, 106 Va. 304; *Crockett* v. *Etter*, 105 Va. 679; *Windsor* v. *McVeigh*, 93 U. S. 274; and *McDonald* v. *Mabel*, 243 U. S. 90.

The progressive arrangement strikes one as being very helpful but we should prefer to find the bill of review and the petition to rehear treated after the discussion of decrees and relief rather than in the chapter on bills, and the crossbill treated as a part of, or rather after, the answer.

We agree most heartily with all that is said about the careless and inaccurate practice of pleading by initials rather than by the full names of parties. But we are not in accord with the remarks commending that statute intended to protect purchasers at judicial sales, Va. Code, 1919, § 6306. As the statute originally stood, Pollard's Code § 3425 if the sale was deferred for six months during which time any dissatisfied party had ample opportunity to apply for an appeal, the commissioner conferred a good title on the purchaser; but as the law now stands the validity of the title remains in doubt for one year after the confirmation of the sale. This does not seem to be an improvement.

It is a matter of regret that the appearance of the book is marred to some extent by typographical errors.

We feel that the author is entitled to our gratitude for his concise and scholarly treatment of this most interesting branch of the law and that the book should be possessed and studied by every student, teacher and practitioner—even our judges might study it to advantage.

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